

**REMARKS**

Claims 33-86 are pending in the application. With the entry of this amendment, claims 33-65<sup>1</sup> of Group I are withdrawn, claims 66-72 and 81-86 of Group II are withdrawn, and claim 73 is amended. Thus, claims 73-80 are currently under examination.

Restriction/Election Requirement

The Examiner restricted the invention to one of two different groups under 35 U.S.C. § 121. See Office Action of April 18, 2003, at page 2. Applicants elect Group II, claims 66-86, allegedly drawn to “a composition, classified in class 424, subclass 14.” Thus, Applicants have withdrawn claims 33-65 of Group I without prejudice or disclaimer to their later introduction into this application or future divisional applications based upon this application.

Further, the Examiner requires an election of species within claims of Group II. In order to be fully responsive and without acquiescing to the Examiner’s assertion, the Applicants elect compounds comprising “formononetin in association with biochanin” with traverse. As part of this election, Applicants have also withdrawn claims 66-72 and 81-86 directed to the non-elected species without prejudice or disclaimer to their later reintroduction into this application or future divisional applications based upon this application.

In addition, as noted above, Applicants have amended claim 73 to reflect the species election “comprising formononetin in association with biochanin.” However, Applicants have not amended the language in claims 73, 79, and 80 regarding the amounts of genistein and daidzein because those amounts may vary within the invention as now set forth by claim 73. The specification expressly describes the formononetin composition with varying amounts of other isoflavones, as follows:

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<sup>1</sup> Applicants respectfully note that the recitation of claims 43-65 in Group I at page 2 of the Office Action appears to be a typographical error.

“[F]ormononetin or daidzein are preferably administered to a subject substantially unaccompanied by other isoflavones. ...By this is meant that any composition or preparations may contain minor amounts of other isoflavones, in the order of 10% (w/w) or less.

Specification, page 9, lines 20-23. Hence, although Applicants elect “formononetin in association with biochanin” as the composition for the treatment or prevention of menopausal symptoms in a post-menopausal woman, the composition can be further limited by imposing minimal or maximal levels of other isoflavones.

Finally, in traversing, Applicants submit that the required species election between 1) formononetin, 2) formononetin and genistein, 3) formononetin and biochanin, 4) formononetin and genistein and biochanin, 5) formononetin and daidzein, and 6) formononetin and daidzein and genistein is contrary to definition of species in the Manual of Patenting Examining Procedure (MPEP). *See e.g., MPEP §§ 806.04(e), (d).* Nonetheless, simply to advance prosecution and not in any acquiescence to the characterization of the claims, as set forth above, Applicants have elected “formononetin in association with biochanin.”

If there are any further fees due in connection with the filing of this Response, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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